

**OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES
AND
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS**

ERRATA NOTICE

The Administrator of the Office of Documents and Administrative Issuances, pursuant to the authority set forth in the section 309 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1203; D.C. Official Code § 2-559), hereby gives notice of the following corrections to the text of the District of Columbia Municipal Regulations (DCMR) which was amended by a Notice of Final Rulemaking published in the District of Columbia Register, and issued by the Department of Consumer and Regulatory Affairs on December 26, 2008 at 55 DCR 13094. The Notice of Final Rulemaking amended Title 12 of the DCMR to adopt the District of Columbia Construction Codes of 2008.

In the preface of the Notice of Final Rulemaking (55 DCR 13094), the reference in the second paragraph to “the D.C. Existing Buildings Code Supplement of 2002” is deleted and replaced with “the D.C. Existing Building Code Supplement of 2003”.

In Title 12A, chapter 15A, section 1511.1(b) (55 DCR 13243), Exception 1 is deleted as the ASHRAE 189.1 standard has not been adopted by the District of Columbia. Exception 1 had read “1. Building projects where an annual energy analysis simulation demonstrates that the total annual building energy cost and total annual CO₂e, as calculated in accordance with ASHRAE Standard 189.1 7.5.2 and 7.5.3, are both 2% less for the proposed roof than with a roof with an initial SRI of 78.”.

In Title 12A, chapter 31A, section 3107.17.5 (55 DCR 13280), Paragraph 2 the word “is” is deleted.

In Title 12H, chapter 9H, section F-901.1 (55 DCR 13449), the sentence “Delete Sections 901.2 through 903.1 of the Fire Prevention Code in their entirety.” is deleted and replaced with the sentence “Delete Sections 901.2 through 901.3 of the Fire Prevention Code in their entirety.”.

Inquiries regarding this notice shall be addressed by mail to Administrator, Office of Documents and Administrative Issuances, 441 4th Street, N.W., Suite 520 South, Washington, D.C. 20001 or via telephone at (202) 727-5090.

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

NOTICE OF FINAL RULEMAKING

The Director of the Department of Consumer and Regulatory Affairs, pursuant to sections 104 and 105 of the Department of Consumer and Regulatory Affairs Civil Infraction Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code §§ 2-1801.04 and 2-1801.05), and Mayor's Order 86-38, dated March 4, 1986, hereby gives notice of the adoption of the following amendments to sections 3309.1, 3309.2, and 3309.3(c) of Title 16, Chapter 33 of the D.C. Municipal Regulations (DCMR) to cite to the current District of Columbia Construction Codes.

This rulemaking was previously published in the *D.C. Register* as emergency and proposed rulemaking on October 30, 2009 (56 DCR 8607). No comments were received and no substantive changes have been made to the rulemaking. A second emergency rulemaking was adopted on February 22, 2010, and published in the *D.C. Register* on March 5, 2010 (57 DCR 1923).

Pursuant to section 104 of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985 (D.C. Law 6-42; D.C. Official Code § 2-1801.4), a proposed resolution approving the emergency and proposed rulemaking (P.R. 18-645) was introduced in the Council of the District of Columbia on December 11, 2009. The proposed resolution was deemed approved by the Council on March 18, 2010.

These final rules will be effective upon publication of this notice in the *D.C. Register* and supersede the emergency rulemaking adopted by the Director on February 22, 2010.

Title 16, Chapter 33, Section 3309.1 of the DCMR is amended to read as follows:

- 3309.1 Violation of any of the following provisions shall be a Class 1 infraction:
- (a) 12G DCMR PM § 705.1 (failure to remedy dangerous conditions to remove hazardous materials);
 - (b) 12A DCMR § 114.10 (failure to comply with terms of a stop work order);
 - (c) 12A DCMR § 114.3 (unauthorized removal of a posted stop work order);
 - (d) Reserved;
 - (e) Reserved;
 - (f) IBC § 709.3 (failure to maintain all required fire resistance rated doors or smoke barriers);
 - (g) IFC § 901.4.1 (failure to maintain in an operative condition at all times fire protection and life safety systems, devices, units, or service equipment);
 - (h) 12H DCMR § F-906.1 (failure to provide fire extinguishers);

- (i) IFC § 1003.1 (failure to maintain in a safe condition and free of all obstructions the means of egress from each part of the building);
- (j) IBC § 1004.1 (overcrowding or admitting persons beyond the established posted occupants load);
- (k) IFC § 508.5.4 (fire hydrants, fire department inlet connections, or fire protection system control valves are obstructed in such manner as to interfere with fire fighting access);
- (l) IFC § 1006.1 (failure to provide adequate lighting for stairways, hallways, and other means of egress); or
- (m) IBC § 1024.6 (exits fail to discharge directly at a public way or at a yard, court, or open space of the required width and size to provide all occupants with a safe access to a public way).

Section 3309.2 is amended to read as follows

3309.2 Violation of any of the following provisions shall be a Class 2 infraction:

- (a) IPMC § 307.1 (permitting the accumulation of waste paper, wood, hay straws, weeds, litter, or combustible or flammable waste or rubbish of any kind);
- (b) IFC § 904.11 (failure to provide or maintain an automatic activation kitchen hood fire extinguishing system);
- (c) IFC § 904.11.1 (failure to provide or maintain a manual activation device for the hood fire extinguishing system);
- (d) NFPA 70 § 110.32 (failure to provide the required clearance between all electrical service equipment and storage);
- (e) IFC § 904.11.5 (failure to provide a sufficient number of portable fire extinguishers);
- (f) IFC § 906.2 or 12G DCMR PM § 705.2 (failure to maintain, test, or recharge hand-operated portable fire extinguishing equipment);
- (g) IFC § 315.2.2 (storing combustible or flammable materials on any portion of an exit, elevator car, stairway, fire escape, or other means of egress);
- (h) IBC § 1005.1 (door openings fail to meet the requirements of minimum width based upon occupant load);
- (i) IBC § 1008.1.9 (doors are not equipped with approved panic hardware);
- (j) IBC § 1008.1.2 (exit doors swing in the wrong direction);
- (k) 12E DCMR M § 1004.1 (failure to provide an oil burner emergency switch);
- (l) IBC § 1011.5.3 (failure to provide emergency lights, alarms, or power back-ups);

- (m) IBC § 1011.1 (permitting decorations, furnishings, or equipment that impairs the visibility of exit signs);
- (n) IBC § 715.4.7.3 (failure to maintain self-closing and automatic doors or to provide a fire or smoke barrier);
- (o) IBC § 1004.3 (failure to conspicuously post sign stating the number of occupants permitted within such space for each place of assembly);
- (p) IBC § 1011.1 (failure to maintain exit signs in theaters or other places of public assembly); or
- (q) IBC § 806 (decorative materials are not non-combustible or flame resistant).

Section 3309.3(c) is amended to read as follows:

- 3309.3 (c) Any provision of the District of Columbia Construction Codes adopted pursuant to the Construction Codes Approval and Amendment Act of 1986, effective March 21, 1987 (D.C. Law 6-216; D.C. Official Code §§ 6-1401 *et seq.*) which is not cited elsewhere in this section shall be a Class 3 infraction.

DEPARTMENT OF HEALTH

NOTICE OF FINAL RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth in section 104 of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985, (D.C. Law 6-42; D.C. Official Code § 2-1801.04) (2007 Repl.), section 4902(b) of the Department of Health Functions Clarification Act of 2001, effective October 3, 2001 (D.C. Law 14-28; D.C. Official Code § 7-731(b)) (2008 Repl.); and Mayor's Order 2004-46, dated March 22, 2004, Sections 2 (a) – (d) and 3 (v), and Mayor's Order 2001-111, dated August 6, 2001, hereby gives notice of the adoption of amendments to Title 16, Chapter 36 of the District of Columbia Municipal Regulations (DCMR) that repeal the current swimming pool and spa fine schedule in section 3621 and replace it with a new schedule of fines for swimming pool and spa facilities, also located in section 3621. The new schedule of fines corresponds with the new Swimming Pool and Spa Regulations that were published in the *D.C. Register* on December 26, 2008, at 55 DCR 12845.

A Notice of Emergency and Proposed Rulemaking was published in the *D.C. Register* on August 21, 2009, at 56 DCR 34. The Department did not receive any comments on the proposed rulemaking and no changes were made to the emergency and proposed rules. These rules will take effect immediately upon publication of this notice in the *D.C. Register*.

Section 3621 of Chapter 36 of Title 16 DCMR (Civil Infractions Schedule of Fines) is amended to read as follows:

3621 SWIMMING POOL AND SPA OPERATIONS INFRACTIONS**3621.1 Reserved**

3621.2 Violation of any of the following provisions shall be a Class 2 infraction:

- (a) 22 DCMR 6463.1(t) (Owning, operating, or managing a public swimming pool or spa without a valid license issued by the Department in violation of section 6445.1);
- (b) 22 DCMR 6463.1(u) (Failure of licensee or manager to employ an individual to serve as swimming pool and spa operator who possesses a valid swimming pool and spa operator's permit issued by the Department in violation of section 6445.2);
- (c) 22 DCMR 6484.1 (Operating a swimming pool or spa with a suspended license);
- (d) 22 DCMR 6463.1(p) (Constructing, installing, renovating, or retrofitting a swimming pool or spa without written approved from the Department of Health and the District of Columbia Department of Consumer and Regulatory Affairs in violation of 6445.3); or

- (e) 22 DCMR 6439.9 (Operating an outdoor swimming pool or spa pool with safety covers that have not been retrofitted to comply with the swimming pool and spa drain cover entrapment protection standards of the ASME/ANSI A112.19.8 performance standard as specified in section 6420.6).

3621.3 Violation of any of the following provisions shall be a Class 3 infraction:

- (a) 22 DCMR 6463.1(t) (Operating a public swimming pool or spa with an expired license in violation of section 6445.1);
- (b) 22 DCMR 6463.1(a) (Operating a swimming pool or spa when the disinfectant level is below the minimum or above the maximum in violation of section 6416.2(b));
- (c) 22 DCMR 6463.1(b) (Operating a swimming pool or spa with improper residuals; or with human or environmental contamination that is not properly treated or disinfected in violation of section 6418);
- (d) 22 DCMR 6463.1(c) (Operating a swimming pool or spa when the pH of the pool water is below 7.2 or above 7.8 in violation of section 6416.2(a));
- (e) 22 DCMR 6463.1(d) (Operating a swimming pool or spa when the clarity of the pool water is such that the main drain grate is not readily visible from the pool deck in violation of section 6414.1);
- (f) 22 DCMR 6463.1(e) (Operating a swimming pool or spa when the recirculation system or disinfection feeding equipment is missing, malfunctioning, or not functioning);
- (g) 22 DCMR 6463.1(f) (Operating a swimming pool or spa facility when a main drain grate is missing, unsecured, improperly secured or damaged);
- (h) 22 DCMR 6463.1(g) (Operating a swimming pool or spa when direct suction exists on the main drain in violation of 6420.6 or the corrective actions are not completed by the required dates in violation of section 6420.5);
- (i) 22 DCMR 6463.1(h) (Operating a swimming pool or spa with a fire on the premise);
- (j) 22 DCMR 6463.1(i) (Operating a swimming pool or spa with a flood on the premises);
- (k) 22 DCMR 6463.1(j) (Operating a swimming pool or spa with an extended interruption of electrical or water service);
- (l) 22 DCMR 6463.1(k) (Operating a swimming pool or spa with a sewage backup);

- (m) 22 DCMR 6463.1(l) (Operating a swimming pool or spa with a misuse of chemicals;
- (n) 22 DCMR 6463.1(m) (Operating a swimming pool or spa with the onset of a confirmed waterborne illness);
- (o) 22 DCMR 6463.1(n) (Operating a swimming pool or spa with a gross unsanitary occurrence or condition);
- (p) 22 DCMR 6463.1(o) (Failing to eliminate a public nuisance dangerous to health);
- (q) 22 DCMR 6463.1(p) (Operating a swimming pool or spa with any modification resulting in the operation of a swimming pool or spa in a manner unsanitary or dangerous to public health or safety);
- (r) 22 DCMR 6463.1(q) (Failing to allow the Department access to a swimming pool or spa in violation of section 6455);
- (s) 22 DCMR 6463.1(r) (Failing to provide copies of the swimming pool or spa's Child Safety Plan to the Department for review and approval in violation of section 6411.1);
- (t) 22 DCMR 6463.1(s) (Operating a swimming pool or spa with a condition that may endanger the health and safety of an individual using a swimming pool or spa, including but not limited to, a missing or not properly secured drain cover or other suction outlet entrapment hazard);
- (u) 22 DCMR 6463.1(v) (Operating a public swimming pool or spa without a lifeguard in violation of section 6410);
- (v) 22 DCMR 6463.1(w) (Operating a public swimming pool or spa with a lifeguard who does not possess a current American Red Cross, YMCA, or equivalent nationally recognized Certifications in Lifeguarding, Adult/ Child/ Infant CPR, and First Aid);
- (w) 22 DCMR 6463.1(x) (Operating a swimming pool or spa with any condition that endangers the health, safety, or welfare of persons using the pool, including but not limited to):
 - (1) A drowning hazard;
 - (2) Broken glass, sharp-edged or broken tile or metal, or other abrasion hazards;
 - (3) Fecal accidents;
 - (4) Electrical violations; or

- (5) Severe algae growth.
- (x) 22 DCMR 6412 or 6413 (Use of pool water that is not potable water from the District of Columbia public water system);
- (y) 22 DCMR 6403.1 through 6403.3 (Failure to post required “Swimming Pool Admission Rules”);
- (z) 22 DCMR 6403.4 (a) - (i) (Failure to enforce “Pool Rules”);
- (aa) 22 DCMR 6403.5 and 6403.6 (Failure to post required “Warning Signs”);
- (bb) 22 DCMR 6404.1 and 6404.2 (Failure to post required “Spa Pool Admission Rules”);
- (cc) 22 DCMR 6404.3 (Failure to provide a clock or other time-keeping device which is visible to bathers using the spa);
- (dd) 22 DCMR 6405.1 (Employment of an individual who is not certified to service the cleanliness, water quality and chemical balance of a public pool);
- (ee) 22 DCMR 6405.2 or 6405.7 (Employment of a swimming pool and spa operator whose certification is not recognized by the Department);
- (ff) 22 DCMR 6406.1 (Failure to have a certified swimming pool or spa operator on duty during all hours of operation);
- (gg) 22 DCMR 6406.2 (Employment of a swimming pool or spa operator who is not knowledgeable in the areas specified in section 6405.3);
- (hh) 22 DCMR 6406.3 (Employment of a swimming pool or spa operator who does not have a valid permit issued by the Department);
- (ii) 22 DCMR 6407.1 (Employment of a lifeguard or swimming instructor who is not certified in lifeguarding or swimming instruction by the American Red Cross, YMCA, or other equivalent nationally recognized aquatic training organization);
- (jj) 22 DCMR 6407.2 (Employment of a lifeguard or swimming instructor who does not possess current certificates in First Aid and in adult, child and infant cardiopulmonary resuscitation through the American Red Cross, the American Heart Association, the National Safety Council, or the American Academy of Orthopedic Surgeons);
- (kk) 22 DCMR 6408.3 (Failure to ensure that all bathers are out of the water and remain out of the water during a lifeguard’s absence);

- (ll) 22 DCMR 6414.2 (Operating a swimming pool or spa pool with heaters that exceed the maximum water temperature of one hundred and four degrees Fahrenheit (104 ° F) (forty degrees Centigrade (40° C));
- (mm) 22 DCMR 6415.1 or 6418.1 (Operating a swimming pool or spa pool with water that is contaminated);
- (nn) 22 DCMR 6410.1 through 6410.5 (Failure to provide an adequate number of lifeguards);
- (oo) 22 DCMR 6411.1 (Failure to follow an approved Child Safety Plan);
- (pp) 22 DCMR 6417.1 (Failure to have chemical required test kits on the premises);
- (qq) 22 DCMR 6417.2 through 6417.4 (Failure to use a chemical test kit as required);
- (rr) 22 DCMR 6421.1 (Operating a swimming pool or spa with an unapproved direct mechanical connection between the potable water supply and the swimming pool or spa, chlorinating equipment, or the system of piping for the swimming pool or spa that is not protected against backflow and back-siphonage);
- (ss) 22 DCMR 6421.3 (Failure to discharge backwash or drainage waters of a swimming pool or spa into a sanitary sewer through an approved air gap or other means approved by the Department of Consumer and Regulatory Affairs);
- (tt) 22 DCMR 6422.1 (a) through (n) (Failure to record daily water quality logs as required);
- (uu) 22 DCMR 6422.2 through 6422.6 (Failure to record daily safety logs as required);
- (vv) 22 DCMR 6422.7 (Failure to comply with all recommendations found in the Centers for Disease Control and Prevention (CDC) “Fecal Incident Response Recommendations for Pool Staff”);
- (ww) 22 DCMR 6423.1 (Failure to report any death, serious injury, or injury that requires resuscitation or admission to a hospital occurring at the swimming pool or spa to the Department within twenty-four (24) hours of the incident);
- (xx) 22 DCMR 6423.2 (Failure to report a complaint of illness attributed by a bather to use of a swimming pool or spa to the Department within twenty-four (24) hours of the incident);

- (yy) 22 DCMR 6427.3. (Improper storage of chemical emitting corrosive fumes or other items that block the room's entrance);
- (zz) 22 DCMR 6429.1 through 6429.6 (Failure to have the required first aid and lifesaving equipment available on the premises);
- (aaa) 22 DCMR 6436.1 (Failure to provide minimum shower facilities);
- (bbb) 22 DCMR 6436.2 (Failure to provide appropriate water at shower heads);
- (ccc) 22 DCMR 6437.4 (Failure to use a disinfectant or chemical feeder to maintain appropriate disinfectant residuals);
- (ddd) 22 DCMR 6437.4 (Use of a pesticide in a manner that is inconsistent with the labeling of the pesticide or inconsistent with the restrictions imposed on the use of the pesticide by the United States Environmental Protection Agency or the Department);
- (eee) 22 DCMR 6437.5 (Improper use of chemical products);
- (fff) 22 DCMR 6437.6 (Use of disinfecting products other than chlorine or bromine that has not been approved by the Department);
- (ggg) 22 DCMR 6438.1 through 6438.5 (Failure to label and store chemicals in a cool, dry, and well-ventilated area under a roof that is inaccessible to the public);
- (hhh) 22 DCMR 6439.1 through 6439.7 (Operating an outdoor swimming pool or spa pool without the required effective barriers or fences); or
- (iii) 22 DCMR 6440.1 or 6441.1 (Failing to minimize the presence of insects, rodents, or other pests on the premises).

3621.4 Violation of any provision of the District's Swimming Pool and Spa Regulations (22 DCMR, Chapter 64), which is not cited elsewhere in this section shall be a Class 4 infraction.

DEPARTMENT OF HEALTH**NOTICE OF FINAL RULEMAKING**

The Director of the Department of Health, pursuant to the authority set forth in section 402 of the Assisted Living Residence Regulatory Act of 2000, effective June 24, 2000 (D.C. Law 13-127, D.C. Official Code § 44-104.02), Mayor's Order 2005-137, dated September 27, 2005, section 104 of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42, D.C. Official Code § 2-1801.04), Mayor's Order 99-68, dated April 28, 1999, and Reorganization Plan No. 4 of 1996., hereby gives notice of the intent to adopt the following amendments to Chapter 36 (Civil Infractions) of Title 16 of the District of Columbia Municipal Regulations (DCMR). The amendments prescribe civil infraction fines for violations of the law governing the licensing and operating standards of assisted living facilities.

The proposed rulemaking was published in the *D.C. Register* on August 8, 2008 at 55 *D.C. Register* 8532 and the comment period was extended on October 3, 2008. The Department received three (3) sets of comments which resulted in several revisions to the rulemaking. A revised Proposed Rulemaking was published for comment on July 10, 2009 at 56 *D.C. Register* 5592. No comments were received. No changes were made to the July 2009 Proposed Rulemaking. The required sixty (60) day Council period of review was completed on March 7, 2010, deeming them approved without Council action.

Chapter 36 (Civil Infractions) of Title 16 DCMR is amended by adding a new section 3663 to read as follows:

3663 LICENSING OF ASSISTED LIVING FACILITIES

3663.1 Violation of any of the following provisions shall be a Class 1 infraction:

- (a) D.C. Official Code § 44-103.01 (operating an assisted living facility without a license);
- (b) D.C. Official Code § 44-103.07(b) (describing, marketing or offering a business as an assisted living facility without having obtained a license);
- (c) D.C. Official Code § 44-105.09(a) (failure to develop and implement policies and procedures on abuse, neglect and exploitation of residents);
- (d) D.C. Official Code § 44-105.09(b)(1) and (b)(2) (failure to report abuse of a resident);

- (e) D.C. Official Code § 44-105.09(b)(3) (failure to thoroughly investigate an allegation of abuse, neglect or exploitation against a resident; failure to take preventive action; failure to report results of investigation);
- (f) D.C. Official Code § 44-106.01(a) (accepting a resident for whom the facility cannot provide appropriate services or failure to make or allow arrangements with a third party to provide appropriate services);
- (g) D.C. Official Code § 44-106.01(b) (failure to determine that a resident is appropriate for admission and that the resident's needs can be met in addition to the needs of other residents);
- (h) D.C. Official Code § 44-106.01(c) (admitting an individual who is younger than eighteen (18) years of age);
- (i) D.C. Official Code § 44-106.01(d)(1) (admitting an individual who upon admission is dangerous to him or herself or others);
- (j) D.C. Official Code § 44-106.01(d)(2) (admitting an individual who is at high risk for health or safety complications and who requires more than thirty-five (35) hours per week of skilled nursing and home care services combined);
- (k) D.C. Official Code § 44-106.01(e) (admitting an individual who requires more than intermittent skilled nursing care, treatment of stage three (3) or four ulcers, ventilator services or treatment for an active, infectious and reportable disease or condition that requires more than contact isolation);
- (l) D.C. Official Code § 44-106.02 (failure to provide a written contract to the resident that the resident or representative signs prior to admission);
- (m) D.C. Official Code § 44-106.04(a) (failure to develop an Individualized Service Plan (ISP) for a resident prior to admission);
- (n) D.C. Official Code § 44-106.04(e) (failure to appropriately transfer resident when appropriate services cannot be provided);
- (o) D.C. Official Code § 44-106.07 (failure to provide twenty-four (24) hour supervision, three (3) nutritious meals per day, fresh and seasonal foods assistance with Activities of Daily Living (ADL) and Instrumental Activities of Daily Living (IADL), laundry and

housekeeping services, access to appropriate health and social services and transportation or arrangement for transportation to community-based services);

- (p) D.C. Official Code § 44-106.08(e) (failure to comply with provisions on discharge);
- (q) D.C. Official Code § 44-107.01(a) (failure to have the assisted living residence supervised by an assisted living administrator who is responsible for all personnel and services);
- (r) D.C. Official Code § 44-107.01(b) (failure of the assisted living administrator to ensure that each resident has access to appropriate medical, rehabilitation, psychosocial services, oversight and monitoring);
- (s) D.C. Official Code § 44-108.01 (failure to complete a resident assessment that will be the basis of the resident's service plan);
- (t) D.C. Official Code § 44-108.02(a) (failure to complete a medical, rehabilitation and psychosocial assessment within thirty (30) days prior to admission);
- (u) D.C. Official Code § 44-108.02(c) (failure to obtain the appropriate examination from the resident's primary health practitioner within thirty (30) days prior to admission); and
- (v) D.C. Official Code § 44-108.04 (for individuals who will be admitted for no longer than thirty (30) days, failure to obtain an analysis of the resident's physical condition, medical status and functional assessment and as well as a resident agreement).
- (x) D.C. Official Code § 44-107.01(e) (failure of newly hired staff to timely document their communicable disease status);
- (y) D.C. Official Code § 44-107.01(f) (failure of employee to document annual freedom from tuberculosis in a communicable form);
- (z) D.C. Official Code § 44-107.01(h) (allowing an employee who has not completed training to work unsupervised by a trained person);
- (aa) D.C. Official Code § 44-110.02 (failure to comply with fire safety requirements);

- (bb) D.C. Official Code § 44-108.05 (failure to comply with requirements on emergency placements);
- (cc) D.C. Official Code § 44-109.01 (failure to comply with requirements on medication management); and
- (dd) D.C. Official Code § 44-109.02 (failure to comply with requirements on medication management assessments).

3663.2 Violation of any of the following provisions shall be a Class 2 infraction:

- (a) D.C. Official Code § 44-103.02 (failure to comply with initial license and application requirements);
- (b) D.C. Official Code § 44-103.04 (failure to comply with license and application requirements for license renewals);
- (c) D.C. Official Code § 44-103.07 (using the word "hospital", "nursing", "sanitorium", "convalescent", "rehabilitative", "subacute" or "hospice" in the facility's title);
- (d) D.C. Official Code § 44-105.01 (failure to care for residents in a manner and in an environment that promotes maintenance and enhancement of the residents' quality of life and independence by providing or arranging for twenty-four (24) hour supervision and assistance in activities of daily living);
- (e) D.C. Official Code § 44-105.02 (failure to comply with requirements on self-determination, choice, independence, participation and privacy);
- (f) D.C. Official Code § 44-105.03 (failure to comply with requirements on residents' dignity);
- (g) D.C. Official Code § 44-105.04 (failure to comply with requirements on accommodation of needs);
- (h) D.C. Official Code § 44-105.05 (failure to comply with requirements on representation and resolution of grievances and complaints);
- (i) D.C. Official Code § 44-105.06 (failure to comply with requirements on privacy and confidentiality);
- (j) D.C. Official Code § 44-105.07 (failure to disclose fair and reasonable contract terms and billing practices);

- (k) D.C. Official Code § 44-105.08 (failure to post and distribute notice of residents' rights);
- (l) D.C. Official Code § 44-105.09(c) (failure to post policies and procedures on prohibiting abuse, neglect and exploitation of residents);
- (m) D.C. Official Code § 44-106.01(f) (failure to maintain records on denial of admissions);
- (n) D.C. Official Code § 44-106.01(g) (automatically excluding from admission a person with primary or secondary mental health issues);
- (o) D.C. Official Code § 44-106.04(b) (failure to require items in the ISP);
- (p) D.C. Official Code § 44-106.04(c) (failure to confer with resident or surrogate during the ISP development process);
- (q) D.C. Official Code § 44-106.04(d) (failure to timely and appropriately review and update ISP);
- (r) D.C. Official Code § 44-106.05 (failure to comply with requirements on shared responsibility agreements);
- (s) D.C. Official Code § 44-106.06 (failure to comply with requirements on residents' records);
- (t) D.C. Official Code § 44-106.08(b) (failure to give appropriate timely notice when there is an immediate transfer of a resident);
- (u) D.C. Official Code § 44-106.08(c) (failure to renegotiate an ISP after a resident has been immediately transferred);
- (v) D.C. Official Code § 44-106.08(d) (failure to give appropriate and timely notice of discharge);
- (w) D.C. Official Code § 44-107.01(c) (failure of ALA to be at least twenty-one (21) years of age);
- (x) D.C. Official Code § 44-107.01(c)(2) (failure of ALA to have requisite education and experience);
- (y) D.C. Official Code § 44-107.01(c)(3) (failure of ALA to have requisite satisfactory knowledge);.

- (z) D.C. Official Code § 44-107.01(d) (failure to employ staff and develop a staffing plan based on required criteria to assure the safety and proper care of residents);
- (aa) D.C. Official Code § 44-107.01(g) (failure of staff to have requisite qualifications and experience);
- (bb) D.C. Official Code § 44-107.02 (failure to comply with requirements on staff training);
- (cc) D.C. Official Code § 44-109.03 (failure to comply with requirements on on-site medication review);
- (dd) D.C. Official Code § 44-109.05 (failure to comply with requirements on medication administration);
- (ee) D.C. Official Code § 44-110.01 (failure to comply with other applicable laws, regulations and codes);
- (ff) D.C. Official Code § 44-110.03 (failure to comply with requirements on the building exterior);
- (gg) D.C. Official Code § 44-110.04 (failure to comply with requirements on the building interior);
- (hh) D.C. Official Code § 44-110.05 (failure to comply with requirements on accessibility);
- (ii) D.C. Official Code § 44-110.10 (failure to comply with requirements on laundry);
- (jj) D.C. Official Code § 44-110.11 (failure to comply with requirements for seventeen (17) beds or more); and
- (kk) D.C. Official Code § 44-111.01 (failure to comply with requirements on insurance).
- (ll) D.C. Official Code § 44-108.02 (failure to have a medical, rehabilitation and psychosocial assessment of the resident done 30 days prior to admission and/or failure to maintain the appropriate assessment information);
- (mm) D.C. Official Code § 44-109.04 (failure to comply with requirements on medication storage); and

- (nn) D.C. Official Code § 44-109.07 (failure to comply with requirements on medication control).

3663.3 Violation of any of the following provisions shall be a Class 3 infraction:

- (a) D.C. Official Code § 44-103.05(b) (failure to timely submit a written request for a change in the license or to pay the license fee);
- (b) D.C. Official Code § 44-103.05(c) (failure to notify residents of a request for change in licensure);
- (c) D.C. Official Code § 44-106.03 (failure to comply with requirements on financial agreements);
- (e) D.C. Official Code § 44-108.01(c)(1) (failure to include a medical history with a resident's recent evaluation);
- (f) D.C. Official Code § 44-108.03 (failure to comply with requirements on functional assessments);
- (i) D.C. Official Code § 44-110.06 (failure to comply with requirements on bathrooms);
- (j) D.C. Official Code § 44-110.07 (failure to comply with requirements on heat, light and ventilation);
- (k) D.C. Official Code § 44-110.08 (failure to comply with requirements on bedrooms); and
- (l) D.C. Official Code § 44-110.09 (failure to comply with kitchen requirements).

Comments on this proposed rulemaking should be submitted, in writing, to Feseha Woldu, Ph.D., Senior Deputy Director, Health Regulation and Licensing Administration, Department of Health, at 717 14th Street, Suite 600, Washington, DC. 20005, within thirty (30) days of the date of publication of this notice in the D.C. Register. Additional copies of this rulemaking are available from the above address.

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

NOTICE OF FINAL RULEMAKING

The Board of Directors of the District of Columbia Water and Sewer Authority ("the Board"), pursuant to the authority set forth in Section 216 of the Water and Sewer Authority Establishment and Department of Public Works Reorganization Act of 1996, effective April 18, 1996 (D.C. Law 11-111, §§ 203(3), (11) and 216; D.C. Code §§ 34-2202.03(3), (11) and 34-2202.16, Section 6(a) of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Code § 2-505(a)), and in accordance with 21 District of Columbia Municipal Regulations (DCMR) Chapter 40, at its regularly scheduled meeting on April 1, 2010 took final action to amend Title 21 DCMR Water and Sanitation Regulations, Chapter 41, Retail Water and Sewer Rates, Section 4103, Fire Protection Service Fee.

The Authority's proposed rulemaking was originally published in the February 12, 2010 edition of the *D.C. Register* (57 DCR 1363). A notice of public hearing was published in the March 5, 2010 edition of the *D.C. Register* (57 DCR 1889) and the public hearing was held on March 18, 2010. The Retail Rates Committee at its meeting on April 1, 2010 considered the comments offered during the comment period and at the March 18, 2010 public hearing. On April 1, 2010, the Board of Directors voted after consideration of all comments received and the report of the Retail Rates Committee to increase the Fire Protection Service Fee to \$ 680.00 per fire hydrant, effective April 12, 2010 pursuant to Board Resolution # 10-53.

No changes have been made to the substance of the proposed regulations. Clarifying changes were made to the regulations, which do not substantially alter or change the intent, meaning, or application of the proposed rules.

This final rulemaking will be effective April 12, 2010.

Title 21 DCMR, Chapter 41 RETAIL WATER AND SEWER RATES, Section 4103 FIRE PROTECTION SERVICE FEE, Subsection 4103.1 is amended to read as follows:

4103 FIRE PROTECTION SERVICE FEE

4103.1 The charge to the District of Columbia for the provision of water for fire protection service, including, but not limited to maintaining and upgrading public fire hydrants in the District of Columbia, and the cost of fire hydrant inspections performed by the D.C. Fire and Emergency Medical Services shall be Six Hundred and Eighty Dollars (\$680.00) per fire hydrant, per year, effective April 12, 2010. The fee may be examined at least once every three years to determine if the fee is sufficient to recoup the actual costs for providing this service. In the event the costs are not being recouped, the District shall pay the difference and the fee will be appropriately adjusted pursuant to the rulemaking process.